

Notice of Allowability

Application No.

09/925,618

Examiner

Michael G. Hartley

Applicant(s)

PLATZEK ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 1/8/2004.
2. ☒ The allowed claim(s) is/are 51 and 54-87.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

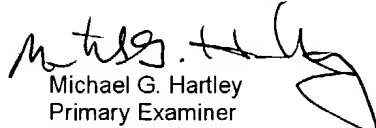
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 2/26/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Michael G. Hartley
Primary Examiner
Art Unit: 1616

Art Unit: 1616

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jennifer Branigan on 2/26/2004.

The application has been amended as follows:

IN THE CLAIMS:

Claim 53 has been canceled.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: The primary reason for allowance is the inclusion of the steps of allowing the uptake contrast agent in tissue (i.e., either plaque or both tumor and necrosis) and then visualizing the plaque (itself) or independently simultaneously necrosis and tumors in which the contrast agent is uptaken. The closest prior art, Platzek WO 97/26017 and WO 99/01161 fail to teach or suggest such steps. Although the WO patents teach imaging of infarction and tumors, these methods are different, in that, the imaging is via imaging the vascular space, which would employ different means of imaging as compared to those claimed, namely not specifically allowing the uptake of contrast agent, as well as, not specifically visualizing the uptake of the contrast agent in the tissue using MRI detection means. Also, there is no teaching in the WO patents of simultaneously independently imaging necrosis and tumors. While the prior art teaches the accumulation of the agent in tumors, this is in the vascular space, and there is no teaching of imaging both the tumor and necrotic tissue simultaneously and independently, which requires different steps (waiting for uptake in tumor and necrotic tissue, and imaging to distinguish between uptake of necrosis and tumor tissue). The previously set forth obviousness type double patenting rejections are withdrawn for the same reasons as set forth above, as the methods in said applications (now patents) do not include the critical steps stated above, and are such methods, as claimed herein, are not obvious in light that the patents deal with vascular imaging agents, as waiting for uptake and imaging uptake therein would be contraindicated.

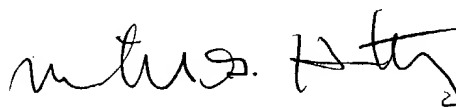
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Hartley whose telephone number is (571) 272-0616. The examiner can normally be reached on M-F, 7:30-5, off alternative Mondays.

Art Unit: 1616

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Michael G. Hartley", with a stylized flourish at the end.

Michael G. Hartley
Primary Examiner
Art Unit 1616